

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ABEL FRIAS,

Plaintiff(s),

v.

CAROLYN W. COLVIN,

Defendant(s).

Case No. 2:15-CV-1348 JCM (VCF)

ORDER

Presently before the court is Magistrate Judge Ferenbach's report and recommendation ("R&R"), regarding plaintiff Abel Frias's ("plaintiff") motion to remand to the Social Security Administration (ECF No. 15) and defendant Carolyn Colvin's (the "commissioner") crossmotion to affirm (ECF No. 18). (ECF No. 20). No objections have been filed, and the deadline for filing objections has since passed.

On February 10, 2012, plaintiff filed applications for disability insurance benefits and supplemental security income. The commissioner denied plaintiff's applications initially and on reconsideration.

Thereafter, plaintiff requested a hearing before an administrative law judge ("ALJ"), which convened on October 28, 2013. The ALJ overseeing the case found plaintiff not disabled as defined by the Social Security Act. The ALJ's decision became final on May 29, 2014, when the appeals council denied plaintiff's request for review.

On July 15, 2015, plaintiff commenced the underlying action seeking judicial review of the ALJ's decision pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3). (ECF Nos. 1,2). On September 15, 2015, the commissioner filed an answer. (ECF No. 11).

1 Subsequently, plaintiff filed a motion to remand the action to the Social Security
2 Administration. (ECF No. 15). In response, the commissioner filed a crossmotion to affirm (ECF
3 No. 18), to which plaintiff replied (ECF No. 19).

4 In his R&R, Magistrate Judge Ferenbach recommends that plaintiff's motion to remand be
5 denied and that the commissioner's crossmotion to affirm be granted. (ECF No. 20). Specifically,
6 the magistrate found that the ALJ's decision to give little weight to the opinions of plaintiff's
7 treating physicians was supported by specific, legitimate reasons and that the ALJ's evaluation of
8 plaintiff's testimony was supported by specific, clear and convincing reasons. (ECF No. 20).

9 This court "may accept, reject, or modify, in whole or in part, the findings or
10 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects
11 to a magistrate judge's report and recommendation, then the court is required to "make a de novo
12 determination of those portions of the [report and recommendation] to which objection is made."
13 28 U.S.C. § 636(b)(1).

14 Where a party fails to object, however, the court is not required to conduct "any review at
15 all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149
16 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a
17 magistrate judge's report and recommendation where no objections have been filed. *See United*
18 *States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review
19 employed by the district court when reviewing a report and recommendation to which no
20 objections were made).

21 Nevertheless, this court finds it appropriate to engage in a *de novo* review to determine
22 whether to adopt the recommendation of Magistrate Judge Ferenbach. Upon reviewing the
23 recommendation and underlying briefs, the court finds that good cause appears to ADOPT the
24 magistrate judge's findings.

25 Accordingly,

26 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge
27 Ferenbach's report and recommendation (ECF No. 20) be, and the same hereby is, ADOPTED in
28 its entirety.

1 IT IS FURTHER ORDERED that plaintiff Abel Frias's motion to remand (ECF No. 15)
2 be, and the same hereby is, DENIED.

3 IT IS FURTHER ORDERED that defendant Carolyn Colvin's crossmotion to affirm (ECF
4 No. 18) be, and the same hereby is, GRANTED.

5 The clerk shall enter judgment accordingly and close the case.

6 DATED September 7, 2016.

7 
8 UNITED STATES DISTRICT JUDGE